

*Acct.*

MEMORANDUM FOR: [REDACTED]

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SUBJECT : Rejection of Regulation [REDACTED]

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1. It is my understanding that the Director has not authenticated Regulations [REDACTED] (Obligation and Expenditure of Funds) and [REDACTED] (Approving Officers) because he feels that the various Agency regulations on the administration of the Confidential Funds are incomplete. The deficiency appears to be that whereas the responsibilities of Approving Officers, Certifying Officers, Agent Cashiers, Allottees and individuals incurring obligations are expressly stated, no mention is made of the responsibilities of the various supervisory officials in the chain of command who may not themselves be designated to act in any of the above technical capacities.

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2. If this is a correct analysis of the Director's views the following comments and suggestions are made to suggest a means of attaining the desired objective:

a. CIA machinery for the administration of its Confidential Funds in general parallels that of the Government in administering vouchered funds. This requires the designation of various officials with stated authorities and responsibilities who will actually administer the funds in a legal manner and so as to provide appropriate checks and balances.

b. The Agent Cashiers and Custodians of funds have fiduciary responsibility for the safekeeping and proper disbursement of funds.

c. Certifying Officers are responsible for verifying the validity of expenditures and for ensuring that expenditures were made in accordance with law and Agency regulations.

d. An Allottee is an individual to whom funds are allotted for a specific purpose, who is authorized to obligate and expend such funds or to authorize or direct the expenditure of such funds by other persons.

e. Of these designated officials the Certifying Officer has primary pecuniary liability for any unauthorized or illegal obligation or expenditure. He can, however, secure relief from pecuniary liability by proving that his improper certification was caused or induced by improper, misleading or fraudulent representations by an Approving Officer. The latter in turn can secure relief by proving that his approval was based upon improper or fraudulent acts by the individual who obligated or expended the funds.

f. It is essentially true, however, that the actions of allottees and individuals obligating and expending funds reflect the instructions, directives, and project approvals of their superiors in the chain of command.

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These superiors, therefore, should be held responsible not only for any positive directions and instructions they may issue but must be held responsible for any detrimental actions resulting from their failure to give adequate direction, guidance, and supervision.

g. Legally, I do not believe it is possible to charge supervisory officials with pecuniary liability in the absence of fraud or criminal negligence. Nevertheless, their responsibility is essentially the most primary and basic of all. Failures to properly fulfill these command and supervisory responsibilities have been the primary factor behind most instances where the actions of allottees, approving officers, and certifying officers have been subject to criticism.

3. If the above analysis of the Director's criticism is correct, the solution appears to be to establish with absolute clarity the fact that command and supervisory officials have primary responsibility for the expenditure and administration of the Confidential Funds of the Agency. It must be clear that they will be held responsible for improper or ill-advised expenditure and administration of Confidential Funds to the extent that such is occasioned by bad judgment or inadequate supervision and direction.

4. Attention is called to the fact, however, that this responsibility is not essentially a technical or legal matter involving pecuniary liability. Neither is it an essential part of the Agency fiscal machinery. The concept of command responsibility applies to all phases of activity regardless of whether Confidential Funds or vouchered funds are involved.

5. In this connection there has been published Agency Regulation [REDACTED] which establishes the basic legal and moral philosophies underlying the use and administration of Confidential Funds. Your specific attention is called to paragraph 8. of this regulation entitled "Individual Responsibility." This paragraph, I believe, not only embraces the over-all concept of command responsibility but charges every officer and employee of the Agency with a personal responsibility for the proper use of Confidential Funds. It is, therefore, possible that the objectives of the Director have already been met in this regulation.

6. Will you please advise whether the above analysis seems to reflect the Director's views and furnish any further instructions you consider appropriate.

EDE:djm

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✓ 1-DD/A Subject

(NOTE: This has been handcarried to [REDACTED] on an informal basis.)

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